

**CHAPTER 106  
MORALS AND WELFARE**

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**106-1. Disorderly Conduct.** Whoever does any of the following may be fined not more than \$500: In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly

conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

**106-1.1. Aggressive Panhandling.**

**1. DEFINITIONS.** a. "Aggressive behavior" means engaging in any conduct with the intention of intimidating another person into giving away money or goods, including but not limited to, intentionally approaching, speaking to or following a person in a manner that would cause a reasonable person to fear imminent physical injury or the imminent commission of a criminal act upon the person or upon the property in the person's immediate possession; intentionally touching another person without consent; or intentionally blocking or interfering with the free passage of a person.

b. "Panhandling" means begging, soliciting, or asking for any item of value; attempting to sell or obtain compensation for an item or service for an amount that is at least twice its value, or an item or service that is already offered or available at no charge to the general public; or attempting to sell or obtain compensation for an item or service under circumstances that would lead a reasonable person to conclude that the payment is in substance a donation.

**2. PROHIBITED.** It shall be unlawful for any person to engage in the act of panhandling when either the panhandler or the person being solicited is located at any of the following locations:

- a-1. At a bus stop.
- a-2. In any public transportation vehicle or public transportation facility.
- a-3. In a vehicle which is parked or stopped on a public street or alley.
- a-4. In a sidewalk café.
- a-5. Within 20 feet in any direction from an automatic teller machine or entrance to a bank.

b. It shall be unlawful for any person to engage in the act of aggressive panhandling at any location within the city.

**3. PENALTY.** Any person violating this section shall upon conviction forfeit not more than \$25, or in lieu of paying the forfeiture perform community service work, in accordance with s. 800.09, Wis. Stats.

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**106-1.8. Public Drinking and Possession of Alcohol Beverages.** 1. PROHIBITED. It shall be unlawful for any person to consume any alcohol beverage or possess on his or her person, any bottle or receptacle containing alcohol beverages if the bottle has been opened, the seal broken or the contents of the bottle or receptacle have been partially removed upon any public alley, highway, pedestrian mall, sidewalk, or street within the limits of the city. Public events for which a permit has been issued under s.105-55.5 to barricade and occupy the public right of way are exempt from this section.

2. PENALTY. Any person who violates this section shall upon being found guilty thereof, be subject to a forfeiture of not less than \$50 nor more than \$250, together with the costs and disbursements of prosecution and upon default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such time costs and disbursements are paid, such imprisonment not to exceed 10 days.

### **106-2.1. Drinking Upon Public Parking Structures and Public Parking Surface Lots.**

1. PROHIBITED. It shall be unlawful for any person to consume any alcohol beverage or possess on his or her person any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed while upon any public parking structure or public parking surface lot within the limits of the city.

1.5. EXCEPTION. The common council may grant a waiver by resolution from the prohibition under sub. 1 for certain special events.

2. DEFINITIONS. In this section:  
a. "Public parking structure" means a building enclosure or garage above or under the ground, or any portion thereof, in which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

b. "Public parking surface lot" means 5 or more ground level parking spaces, or any portion thereof, not located in a structure, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

c. "Special event" means any planned extraordinary occurrence on a public parking structure or public parking surface lot, sponsored or authorized by the owner or management of the structure or lot, including but not limited to festivals, block parties and tailgate parties.

3. PENALTY. Any person who violates this section shall, upon being found guilty thereof, be subject to a forfeiture of not less than \$50 nor more than \$250, together with the costs and disbursements of prosecution, and upon default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county until such time as costs and disbursements are paid, such imprisonment not to exceed 10 days.

### **106-2.5. Water Tower Park Curfew.**

1. RESTRICTIONS. No person shall enter or remain in the area known as Water Tower Park bounded by E. North Ave., E. Wyoming Pl., N. Lake Dr. and N. Terrace Ave. between the hours of 10 p.m. and 7 a.m. Appropriate signs of a properly aesthetic nature shall be so placed as to give the public notice of the foregoing restrictions.

2. PENALTY. Any person violating this section shall be subject to a forfeiture of not less than \$1 nor more than \$200 together with the costs of prosecution, and upon default of payment thereof be confined in the county jail or house of correction for a period not to exceed 90 days or until such fine and costs are paid.

**106-3. Places of Prostitution.** Every person or persons who shall keep a place of prostitution or who grants the use or allows the continued use of a place of prostitution shall be fined not less than \$100 and not more than \$500, and any person who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual perversion as defined by ch. 944, Wis. Stats., and any acts amendatory thereof and supplementary thereto shall be fined not more than \$100.

**106-4. Leasing Building for Prostitution.** All persons are prohibited from leasing or letting, either as landlord or agent of the landlord, or agent of the tenant, or as landlord through any agent or subagent, any house, room or other

premises in the city to be used for the purpose or prostitution or lewdness. Any person violating this section shall upon conviction thereof be fined not less than \$50 nor more than \$500.

**106-5. Indecent Exposure.** Any person who publicly and indecently exposes an intimate part of his or her body shall upon conviction thereof be punished by a fine of not less than \$50 nor more than \$250 and the costs of prosecution. In this section, "intimate part" means the female breast below a point immediately above the top of the areola, buttock, anus, scrotum, penis, vagina or pubic mound.

**106-6. Exhibiting Stud Horse or Bull.** No person shall indecently exhibit any stud horse or bull, or let any such horse to any mare, or any bull to any cow or cows within the limits of this city, unless in some enclosed place out of public view, under a penalty of not less than \$10 nor more than \$50 for each offense.

**106-7. Obscene Materials or Performances.**

1. DEFINITIONS. a. "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual 3-dimensional obscene device.

b. "Obscene" means material or a performance that:

b-1. The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex.

b-2. Depicts or describes:

b-2-a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, fellatio, cunnilingus and sexual bestiality; or

b-2-b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

b-3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

c. "Obscene device" means a device, including a dildo or artificial vagina, designed

and marketed as useful primarily for the stimulation of human genital organs.

d. "Patently offensive" means so offensive on its face as to affront current community standards of decency.

e. "Performance" means a play, motion picture, dance or other exhibition performed before an audience.

f. "Promote" means to manufacture, issue, sell, give, provide, lend, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same.

2. UNLAWFUL ACTS. a. A person commits a violation under this section if, knowing its content and character, he or she:

a-1. Promotes or possesses with intent to promote any obscene material or obscene device; or

a-2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

b. This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed by this section when the possession, participation or conduct occurs in the course of law enforcement activities.

3. PENALTY. Any person who violates this section shall forfeit not less than \$500, nor more than \$2,000 together with the costs of prosecution for each offense. In default of payment of any forfeiture and cost of prosecution, the violator shall be imprisoned in the house of correction or the county jail until such forfeiture or costs are paid. Such imprisonment shall not exceed 60 days.

**106-8. Harassing or Obscene Phone Calls.**

Whoever does any of the following, by means of telephone calls originating within or received within the limits of the city, may be fined not less than \$50 nor more than \$200 or upon default of payment therefor shall be imprisoned in the house of correction of Milwaukee county for not more than 60 days:

1. Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.

2. Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers.

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3. Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers.

4. Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers.

5. Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.

6. In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number.

### 106-9.5. Exposing Minors to Harmful Materials.

1. DEFINITIONS. For purposes of interpretation in enforcement of this section, the definitions contained in sub. 1 shall apply. In addition, as used in this section:

a. "Knowingly" means having general knowledge of, or reason to know, or belief or ground for belief which warrants further inspection or inquiry of both:

a-1. The character and content of any material described herein which is reasonably susceptible of examination by the defendant.

a-2. The age of a minor.

b. "Minor" means any person less than 18 years old.

2. UNLAWFUL. It shall be unlawful for any person knowingly to distribute pornographic material to a minor.

3. VIOLATIONS. It shall be unlawful for any person to exhibit a pornographic performance to a minor. It shall be a violation of this section if any person for a monetary consideration or other valuable commodity or service knowingly:

a. Exhibits a pornographic performance to the minor; or

b. Sells an admission ticket or other means to gain entrance to a pornographic performance to the minor; or

c. Permits the admission of the minor to premises whereon there is exhibited a pornographic performance.

4. PENALTY. Any person who shall violate this section shall forfeit not less than \$200 nor more than \$1,000 together with the costs of prosecution. In default of payment of any forfeiture and costs of prosecution, the violator shall be imprisoned in the house of correction or the county jail until such forfeiture and costs are paid and such imprisonment shall not exceed 90 days.

## 106-9.6. Display of Material Harmful to Minors and Marital Aid Devices. 1. DEFINITIONS. In this section:

a. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct or sexual excitement when it:

a-1. Predominantly appeals to the prurient, shameful or morbid interests of minors in sex.

a-2. Is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors.

a-3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

b. "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

b-1. The character and content of any material which is reasonably susceptible of examination.

b-2. The age of the minor.

c. "Marital aid device" means a device designed or marketed primarily for use in achieving the sexual stimulation or arousal of human genital organs, including a dildo or artificial vagina.

d. "Material" means any book, cassette, magazine, motion picture film, newspaper, pamphlet, poster, print, picture, slide, figure, image, description, record, recording tape or video tape.

e. "Minor" means any person under the age of 18 years.

f. "Nudity" means: the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

g. "Person" means any individual, partnership, association, corporation or other legal entity of any kind.

h. "Sexual conduct" includes any of the following depicted sexual conduct:

h-1. Any act of sexual intercourse, actual or simulated, including genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal.

h-2. Sadomasochistic abuse meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed.

h-3. Masturbation or lewd exhibitions of the genitals, including any explicit, close-up representation of a human genital organ.

h-4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female or the breasts of the female, whetheralone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

h-5. An act of sexual assault where physical violence or drugs are employed to overcome the will of or achieve the consent of a person to an act of sexual conduct and the effects or results of the violence or drugs are shown.

i. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

**2. PROHIBITED DISPLAY.** No person having custody, control or supervision of any commercial establishment may knowingly display marital aid devices, or any material whose cover, covers or packaging, standing alone is harmful to minors, in such a way that minors, as part of the invited general public, will be exposed to view the material or in such a way that the devices or material are easily visible from a public thoroughfare or sidewalk. A person shall not be deemed to have displayed material harmful to minors if those portions of the cover, covers or packaging containing such material harmful to minors are blocked from view by an opaque screen, border or cover. An honest mistake regarding the age of a minor shall constitute an excuse from liability if the defendant made a reasonable bona fide attempt to ascertain the true age of the minor.

**3. PENALTY.** Any person who violates this section shall, upon conviction, forfeit not more than \$500, together with the costs of prosecution, or, in default of payment may be imprisoned in the county jail or house of correction for not more than 30 days. Each day on which a violation continues shall be determined a separate and distinct offense.

**106-11. Mashing Prohibited.** Any person of either sex who shall improperly accost, ogle, insult, follow, pursue, lay hands on or otherwise molest any person of the opposite sex theretofore to him or her unacquainted, shall upon conviction forfeit not less than \$10 nor more than \$250, or in default of payment may be imprisoned in the house of correction of Milwaukee county for not less than 15 days nor more than 90 days.

**106-12. Bathing. 1. SWIMMING PLACES.** No person shall be allowed to bathe or swim in the public waters of the city, except from public or private bath houses or swimming schools; provided, that this shall not apply to the waters of Lake Michigan opposite Bradford Avenue, Pennsylvania Avenue and Texas Avenue.

**2. BATHING SUIT REGULATIONS.** No person shall bathe or swim in the public waters of the city unless clad in proper and decent bathing suits. No person shall appear in the public highways of the city outside of bathing establishments clad in bathing costumes, unless street clothes are worn on the outside thereof.

**3. BATH HOUSES.** No person shall keep a bathing institution at any of the said public waters without the consent of the mayor, and then only subject to such regulations as the mayor shall prescribe.

**4. PENALTY.** For penalty clause, see s. 106-22.

**106-21. Unlawful Library Acts.**

**1. DEFINITIONS.** In this section:

a. "Library" means any city of Milwaukee public library.

b. "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

c. "Value" means the reasonable replacement cost of an item as determined by library policy.

**2. UNLAWFUL USE OF LIBRARY CARD.** a. No person may:

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a-1. Use, present or cause to be presented as valid any canceled, fictitious or fraudulently obtained, forged or altered library card.

a-2. Sell or lend his or her library card to any other person or knowingly permit the use thereof by another.

a-3. Represent as one's own, any library card not issued to him or her.

a-4. Permit any unlawful use of a library card issued to him or her.

b. Whenever a library card which belongs to another or appears to be altered or fraudulently obtained is displayed to a law enforcement officer or library employee or agent, that person shall take possession of the card and return it to the library.

**3. FAILURE TO RETURN LIBRARY MATERIAL.** a. No person may fail to return overdue, borrowed library material after having received a written notice to return the material.

b. Each individual item borrowed may constitute a separate violation of this section.

c. Refusal to accept or failure to receive an overdue notice mailed by first class mail to such person's last-known address shall not be a defense to a violation of this section. If the person has changed his or her address and fails to notify the Milwaukee public library as required, failure to receive the overdue notice shall not be a defense.

**4. THEFT OF LIBRARY MATERIAL.**

a. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material with a value of \$500 or less without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. 7-b.

b. The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

c. An official or adult employee or agent of a library who has probable cause for believing that a person has violated this subsection in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

**5. FRAUDULENT REGISTRATION AND USE OF LIBRARY MATERIALS.** a. No person shall directly or indirectly make or cause to be made any false statement regarding the person's own identity or residence or the identity or residence of another person when the person knows his or her statement to be false and when the person intends that false statement to be relied upon for any person's registration for or use of library materials.

b. Evidence that a person has the intent required under par. a is shown by the person's doing any of the following:

b-1. Directly or indirectly giving false or misleading information on a library registration form.

b-2. Presenting false or fictitious credentials for the purpose of obtaining a library card or the use of library materials.

b-3. Using a library card that was obtained in violation of this subsection to check out library materials.

**6. ALTERATION OF IDENTIFICATION MARKINGS.** a. No person shall remove, alter or conceal all or any part of an identification mark, label, stamp, writing or attachment that identifies any item or material as the property of the library unless authorized library personnel has marked the item or material as "DISCARDED".

b. No person shall possess, transport, display for sale, sell, trade or retain for personal use any library item or material on which identification markings have been altered as prohibited under par. a.

c. No person shall possess, transport, display for sale, sell or trade a discard stamp or any other paraphernalia designed to alter identification markings on library materials.

**7. PENALTY.** a. A person who violates subs. 2, 3, 5 or 6 may be required to forfeit no more than \$1,000.

b. A person who violates sub. 4 may be required to forfeit not more than \$1,500.

c. A person in default of a forfeiture under pars. a or b may be imprisoned in the county jail or house of correction for no more than 60 days, until such forfeiture costs are paid.

**8. CITATIONS.** a. Citations may be issued for all violations of this section with or without prior order or notice by a peace officer.

b. Citations may be issued by the library's investigator or other designated agent for any violation of subs. 2, 3, 5 or 6.

c. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply for any citation issued in accordance with this section.

**106-22. Penalty, General.** Any person violating any of the provisions of this chapter, for the violation of which no penalty is in this chapter specified, shall be punished by a fine of not less than \$1 nor more than \$100.

**106-23. Loitering of Minors (Curfew Hours).** It shall be unlawful for any person under the age of 17 years to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city either on

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foot or in or upon any conveyance being driven or parked thereon, between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31.

**1. EXCEPTIONS.** This section shall not apply where the actor was accompanied by his or her parent, guardian or other adult person having his or her care, custody or control, or where the actor was exercising first amendment rights protected by the United States constitution or the Wisconsin constitution, including freedom of speech, the free exercise of religion, and the right of assembly. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to issuing a citation for an offense under this section, afford the actor an opportunity to explain his or her reasons for being present in the public place. A peace officer shall not issue a citation for an offense under this section unless the officer reasonably believes that an offense has occurred, and that none of the exceptions described in this subsection apply.

**2. RESPONSIBILITY OF PARENTS.** It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 17 years to suffer or permit or by inefficient control to allow such person to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday, and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31, unless one of the exceptions described in sub. 1 applies; provided that any parent, guardian or other adult person who shall have made a missing person notification to the police department shall not be considered to have suffered or permitted any person to be in violation of this section.

**3. RESPONSIBILITY OF OPERATORS.** It shall be unlawful for any person, firm or corporation operating places

of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation to permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless one of the exceptions described in sub. 1 applies.

**4. RESPONSIBILITY OF HOTELS, ETC.** It shall be unlawful for any person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent or servant or employee of such person, firm or corporation operating a hotel, motel, lodging or rooming house, to permit any person under the age of 18 years to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours of 10 p.m. and 7 a.m. of the following day, official city time; provided, however, that this section does not apply when one of the exceptions described in sub. 1 applies.

**5. PENALTY.** Any person, firm or corporation violating this section upon conviction shall forfeit not less than \$100 nor more than \$200, and in default of payment thereof be confined in the county house of correction not more than 8 days.

**106-23.1. Truancy. 1. DEFINITIONS.** In this section: a. "Acceptable excuse" means an excuse described under ss. 118.15 and 118.16(4), Wis. Stats.

b. "Habitual truant" means any pupil who is truant for part or all of 5 or more days in a school semester.

c. "Truant" means a school pupil who is at least 12 years of age who is absent from school without an acceptable excuse for part or all of any day in which school is held during a school semester.

**2. PROHIBITION.** It is a violation of this section for any person under 18 years of age to be truant or a habitual truant.

**3. PENALTIES.** a. Any truant may be subject to any or all of the following:

a-1. An order to attend school.

a-2. A forfeiture of not more than \$50, plus court costs, for a first violation.

a-3. A forfeiture of not more than \$100, plus court costs, for a second or subsequent violation committed within 12 months of the commission of a previous violation, subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester.



a-4. An order to pay court costs, subject to s. 938.37, Wis. Stats.

b. Any habitual truant may be subject to any or all of the following:

b-1. Suspension of his or her operating privileges for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Wisconsin department of transportation together with a notice stating the reason for and the duration of the suspension.

b-2. An order to participate in counseling or a supervised work program or other community service work as described in s. 938.342(1g)(b), Wis. Stats.

b-3. An order for the department of workforce development to revoke, under s. 103.72, Wis. Stats., a permit issued under s. 103.70, Wis. Stats., authorizing the employment of the habitual truant.

b-4. An order to attend school.

b-5. A forfeiture of not more than \$500, plus court costs, subject to s. 938.37, Wis. Stats.

b-6. An order placing the habitual truant under formal or informal supervision as described in s. 938.34(2), Wis. Stats., for up to one year.

b-7. An order for the habitual truant's parent, guardian or legal custodian to participate in counseling or to attend school with the habitual truant, or both.

c. All or part of any forfeiture assessed pursuant to this section may be assessed against the truant or habitual truant, his or her parent or guardian, or both.

**106-23.2. Contributing to the Delinquency of Minors.** Any parent or legal guardian having legal custody of a minor under the age of 18 years who, through his or her negligence, laxity or disregard of the morals, health and welfare of the minor, has contributed to the delinquency of the minor, or any person who shall contribute to the delinquency of any minor shall be punished by a fine of not less than \$25 nor more than \$500, or in default thereof, by imprisonment in the county jail or house of correction until such fine, including costs and disbursements, is paid, but not to exceed 60 days.

**106-23.3. Contributing to Truancy.** 1. In this section "truancy" has the same meaning as defined under s. 118.16(1)(c), Wis. Stats.

2. Except as provided in sub. 4, no person 18 years of age or older shall knowingly encourage or contribute to the truancy of a minor under the age of 18 years.

3. An act or omission contributes to the truancy of a minor, whether or not the minor is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the minor to be truant.

4. Subsection 2 does not apply to a person who has under his or her control a truant minor who has been sanctioned through the state Learnfare program under s. 49.50(7)(h), Wis. Stats.

5. A person who is convicted of violating this section shall forfeit not less than \$25 nor more than \$500, and in default of payment shall be imprisoned in the house of correction or the county jail for not less than one day nor more than 20 days.

**106-23.4. Newscarrrier Regulations (Minors).**

1. UNDER THE AGE OF 12 YEARS. Except as provided in s. 103.23(2), Wis. Stats., no child under the age of 12 years shall be allowed to hawk or sell newspapers or other articles upon the streets of the city.

2. PENALTY. Parents and guardians, or those having children in their charge, are hereby required to see that the provisions of this section are carried out and, in case of failure to do so, are made subject to a fine of not less than \$1 nor more than \$10, or to imprisonment in the house of correction of Milwaukee county for not less than 5 days nor more than 15 days in the discretion of the court.

**106-30. Sale of Tobacco to Persons Under 18.**

1. DEFINITIONS. In this section:

a. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

b. "Person" means any individual, partnership, firm, organization, association, corporation, trustee or other legal entity of any kind.

c. "Retailer" means any person licensed under s. 134.65(1), Wis. Stats.

d. "Tobacco products" means: cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish;

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plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes, as defined under s. 139.30(1), Wis. Stats.

e. "Vending machine" means any mechanical device that automatically dispenses cigarettes or tobacco products when money or tokens are deposited in the device in payment for cigarettes or tobacco products.

**2. PROHIBITION.** a. No retailer may sell or give to any person under the age of 18 any cigarette or tobacco products at any time, except as provided in s. 254.92(2(a)), Wis. Stats. A vending machine operator is not liable under this section for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

b. No retailer may provide for nominal or no consideration cigarettes or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

**3. REGULATIONS.** a. The owner or operator of a premise which sells cigarettes or tobacco products shall post a sign in the immediate area where those products are sold stating that the sale of any cigarette or tobacco products to a person under the age of 18 is unlawful under this section and ss. 134.66 and 254.92, Wis. Stats.

b. Any person licensed under s. 84-43 who sells cigarettes through a vending machine shall place on the front of each machine, in a conspicuous place, a decal furnished by the city, which states that it is unlawful for persons under the age of 18 to purchase cigarettes under s. 254.92, Wis. Stats., and that the purchaser is subject to a forfeiture not to exceed \$50.

c. As of September 1, 1989, no person may place a vending machine which sells cigarettes within 500 feet of a school. All such vending machines currently located within

500 feet of a school shall be removed prior to September 1, 1989, unless a written agreement binds the location of the machine until a date certain. In such instances, the machine shall be removed on the date the agreement expires or is due to be renewed or extended.

d. A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

e. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32(1), Wis. Stats.

**4. DEFENSE OF RETAILER.** Proof of all the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. 2-a:

a. That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.

c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

**5. PENALTIES.** a. Any person convicted of violating this section, except sub. 3-a, shall be subject to the following forfeitures:

a-1. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

a-2. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b. If the court finds that a person licensed under s. 84-43 committed a violation, the license of the person shall be suspended for the following periods of time:

b-1. Not more than 3 days if the person committed a violation within 12 months after committing one previous violation.

b-2. Not less than 3 days nor more than 10 days if the person committed a violation within 12 months after committing 2 previous violations.

b-3. Not less than 15 days nor more than 30 days if the person committed the violation within 12 months after committing 3 or more previous violations.

c. Upon suspension of the license under par. b, the court shall promptly mail notice of the suspension to the Wisconsin department of revenue.

d. Any person convicted of violating sub. 3-a shall forfeit not more than \$25.

**106-30.5. Purchase and Possession of Cigarettes and Tobacco Products by Persons Under the Age of 18.**

1. FALSE REPRESENTATION ILLEGAL. No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.

2. EXCEPTION. No person under 18 years of age may purchase or possess cigarettes or tobacco product except as follows:

a. A person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

b. A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes or tobacco products in the course of his or her participation in an investigation under s. 254.916, Wis. Stats., that is conducted in accordance with sub. 3 and s. 254.916(3), Wis. Stats.

3. INVESTIGATION EXCEPTION. With the permission of his or her parent or guardian, a person under the age of 18 years, but not under 15 years of age may buy, attempt to buy or possess any cigarette or tobacco product if all of the following are true:

a. The person commits the act for the purpose of conducting an investigation under s. 254.916, Wis. Stats.

b. The person is directly supervised during the conducting of the investigation by an adult employee of a governmental regulatory authority.

c. The person has prior written authorization to commit the act from a governmental regulatory authority or a district attorney or from an authorized agent of a governmental regulatory authority or a district attorney.

4. SEIZURE. A police officer shall seize any cigarette or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

5. PENALTY. Any person convicted of violating this section, shall be subject to a forfeiture not to exceed \$50.

**106-31. Loitering or Prowling.** Whoever does any of the following within the limits of the city may be fined not more than \$500 or, upon default of payment thereof, shall be imprisoned in the house of correction of Milwaukee county for not more than 90 days.

1. LOITERING. Loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

2. DWELLING AREAS, ETC. Hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

3. PUBLIC REST ROOMS. Loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

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4. SCHOOLS, ETC. Loiters in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

5. PUBLIC BUILDINGS, ETC. Lodges in any building, structure or place whether public or private without the permission of the owner or person entitled to possession or in control thereof.

6. RESTAURANTS, TAVERNS, ETC. Loiters in or about a restaurant, tavern or other public building. As used in this subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

7. SOLICITING, ETC. To loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them;

b. "Known prostitute or panderer" means a person who within one year previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or Milwaukee county circuit court of an offense involving prostitution.

8. PARKING LOTS, ETC. Loiters in or upon any public parking surface lot or public parking structure, either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner or person entitled to possession or in control thereof, notwithstanding the notification requirements of ss. 101-23.5 and 110-10. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public parking structure" means a building enclosure or garage above or under the ground, or any portion thereof, in which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

b. "Public parking surface lot" means 5 or more ground level parking spaces, or any portion thereof, not located in a structure, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

9. PRIVATE OR PUBLIC RESIDENTIAL PROPERTY, ETC. Loiters in or on private or public residential property in residential neighborhoods. As used in this subsection, "loiter" means to, without just cause, linger, remain in or on private or public residential property, or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where No Loitering signs are posted. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

**106-33. Sales of Matches to Persons Under Thirteen Years of Age.** 1. PURPOSE. In the interest of welfare and safety of the general public, the selling or giving of matches to persons under the age of 13 years is prohibited, unless such person is accompanied by a parent or guardian, to prevent such minors from injuring themselves or others while playing with matches.

2. DEFINITION. As used in this section the term "match" shall mean a slender piece of wood or other fairly rigid material tipped with a combustible mixture that bursts into flame by friction, sometimes only on a specially prepared surface, that so ignites the end of the piece.

3. PROHIBITION. No person shall sell or offer for sale, barter, or give away matches to a person under the age of 13 years nor any other flame producing devices which are easily operated by such persons, unless such person is accompanied by his parent or other adult member of such person's family, his or her legal guardian, or person in loco parentis.

4. PENALTY. Any person, firm, or corporation violating sub. 3 shall upon conviction forfeit \$25 for each offense, and in default of payment shall be imprisoned in the house of correction or the county jail not to exceed 90 days or until such forfeiture costs are paid.

**106-34. Sale of Spray Paint and Wide-Tipped Markers to Minors.** 1. DEFINITIONS. In this section: a. "Graffiti" means any inscription, word, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, die or other similar substances on buildings, fences, structures and similar places without the express permission of the owner or operator of the property.

b. "Spray paint" means any container, regardless of the material from which it is made, which is made or adapted for the purpose of spraying paint.

c. "Wide-tipped markers" means any indelible marker or similar implement with a tip which, at its broadest width, is 1/4 inch or greater.

2. PROHIBITED CONDUCT. a. Sale of Spray Paint and Wide-Tipped Markers to Minors. No person, firm, or corporation, except a parent or legal guardian, employer, teacher or other person authorized to supervise minors,

may sell or give away or in any way furnish spray paint or wide-tipped markers to any person under the age of 18.

b. Possession of Spray Paint and Wide-Tipped Markers. No person under the age of 18 may possess spray paint or wide-tipped markers in a public or private place, without the express permission of the owner or operator of the property.

3. DISPLAY OF SPRAY PAINT AND WIDE-TIPPED MARKERS. Every person who owns, conducts, operates or manages a retail commercial establishment selling spray paint or wide-tipped markers shall:

a. Place a sign in clear public way view at or near the display of such products stating:

GRAFFITI IS AGAINST THE LAW. THE DEFACING OF PUBLIC OR PRIVATE PROPERTY IS PUNISHABLE BY A FINE OF UP TO \$5,000 OR IMPRISONMENT FOR UP TO 90 DAYS.

b. Place a sign in the direct view of persons responsible for accepting customer payment for spray paint, wide-tipped markers stating:

SELLING SPRAY PAINT OR WIDE-TIPPED MARKERS TO PERSONS UNDER 18 YEARS OF AGE IS AGAINST THE LAW. VIOLATORS CAN BE FINED UP TO \$5,000 OR IMPRISONED UP TO 90 DAYS.

c. Display such paint or markers in such a manner as to make them inaccessible to a customer present in the area allocated for customer use without assistance from an employee of that establishment.

d. Display such items, if the person chooses not to comply with the display requirements set forth in par. c, such that mirrors, cameras or personnel can readily observe customers during all times such establishment is open to the public.

4. PENALTIES. a. Any person convicted of violating any provision of this section, shall forfeit not less than \$500 nor more than \$5000 per violation, or upon default of payment be imprisoned for not more than 90 days.

b. Any person convicted of violating sub. 2-b shall forfeit \$200 per violation.

**106-35. Loitering-Soliciting Prostitutes.** 1. In this section: a. "Known area of prostitution" means a public place where within 3 years previous to the date of arrest for violation of

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this section, and within the knowledge of the arresting officer, a person had been arrested for a violation which led to a conviction in Milwaukee municipal court or Milwaukee County circuit court of an offense involving prostitution.

b. "Known prostitute" means a person who, within 3 years previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or Milwaukee County circuit court of an offense involving prostitution.

c. "Public place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.

2. Any person who loiters or drives in any public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution shall forfeit not less than \$500 nor more than \$5,000 or upon default of payment be imprisoned for not more than 80 days. Among the circumstances which may be considered in determining whether such purpose is manifested are the following: that the person frequents, either on foot or in a motor vehicle, a known area of prostitution; repeatedly beckons to stop or attempts to stop, or engages known prostitutes in conversation; or stops the motor vehicle the person is the operator of and picks up or attempts to pick up a known prostitute. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

**106-35.6. Loitering-Illegal Drug Activity.** 1. In this section: a. "Illegal drug activity" means unlawful conduct contrary to any provision of

ch. 961, Wis. Stats., or any substantially similar federal statute, statute of a foreign state, or ordinance of any political subdivision.

b. "Known area of illegal drug activity" means a public place where, within 3 years previous to the date of arrest for violation of this section, and within the collective knowledge of the police department, a person has been arrested for a violation which led to a conviction in any municipal, state or federal court of an offense involving illegal drug activity.

c. "Known drug seller or purchaser" means a person who, within 3 years previous to the date of arrest for violation of this section, had within the collective knowledge of the police department been convicted in any municipal, state or federal court of an offense involving illegal drug activity.

d. "Public place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.

2. Any person who loiters or drives in any public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to engage in illegal drug activity shall forfeit not less than \$500 nor more than \$5,000 or upon default of payment be imprisoned for not more than 90 days. Among the circumstances which may be considered in determining whether such purpose is manifested are the following: that the person frequents, either on foot or in a motor vehicle, a known area of illegal drug activity; repeatedly beckons to stop or attempts to stop known drug sellers or purchasers or engages known drug sellers or purchasers in conversation; stops the motor vehicle the person is the operator of and sells or purchases or attempts to sell or purchase illegal drugs to or from a known drug seller or purchaser; transfers small objects or packages for currency in a furtive fashion or manifestly endeavors to conceal himself, herself or any object or package which reasonably could be involved in illegal drug activity; takes flight upon appearance of a police officer. The violator's conduct must be

such as to demonstrate a specific intent to induce, entice, solicit or procure another to engage in illegal drug activity. No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's presence and conduct, unless flight by the person or other circumstances make it impracticable to afford such an opportunity, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

**106-36. Drug Paraphernalia. 1. DEFINITION.** In this section "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, as defined in ch. 961, Wis. Stats., in violation of this section. It includes, but is not limited to:

- a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- d. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

i. Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

k. Hypodermic syringes, needles and other objects used intended for use or designed for use in parenterally injecting controlled substances into the human body.

L. Objects used intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:

L-1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

L-2. Water pipes.

L-3. Carburetion tubes and devices.

L-4. Smoking and carburetion masks.

L-5. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

L-6. Miniature cocaine spoons and cocaine vials.

L-7. Chamber pipes.

L-8. Carburetor pipes.

L-9. Electric pipes.

L-10. Air-driven pipes.

L-11. Chillums.

L-12. Bongs.

L-13. Ice pipes or chillers.

**2. DETERMINATION OF DRUG PARAPHERNALIA.** In determining whether an object is drug paraphernalia, the following shall be considered:

a. Statements by an owner or by anyone in control of the object concerning its use.

b. Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.

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c. The proximity of the object in time and space to a direct violation of this section.

d. The proximity of the object to controlled substances.

e. The existence of any residue of controlled substances on the object.

f. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

g. Oral or written instructions provided with the object concerning its use.

h. Descriptive materials accompanying the object which explain or depict its use.

i. National and local advertising concerning its use.

j. The manner in which the object is displayed for sale.

k. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.

L. The existence and scope of legitimate uses for the object in the community.

m. Expert testimony concerning its use.

### 3. PROHIBITED ACTIVITIES.

a. Possession of Drug Paraphernalia. No person may use or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

b. Manufacture, Sale, or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

c. Delivery of Drug Paraphernalia to a Minor. Any person 18 years of age or over who violates par. b by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.

d. Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

e. Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with ch. 961, Wis. Stats.

4. PENALTIES. a. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the city.

b. Any person who violates sub. 3-a, b or d shall, upon conviction, be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 20 days.

c. Any person who violates sub. 3-c shall, upon conviction, be subject to a forfeiture of \$1,000, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 40 days.

## 106-38. Possession of Marijuana.

1. DEFINITIONS. In this section, "marijuana" and "practitioner" shall be defined as in s. 961.01(14) and (19), Wis. Stats., respectively.

2. PROHIBITED. No person may possess marijuana in amounts of 25 grams or less unless the marijuana was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice or except as authorized by ch. 961, Wis. Stats.; except that in accordance with s. 66.0107(1)(bm), Wis. Stats., any person who is charged with possession of any amount



of marijuana following a conviction for possession of marijuana, in this state, shall not be prosecuted under this section.

**3. PENALTY.** Any person violating this section shall upon conviction:

a. Forfeit not less than \$250 nor more than \$500, or, in default of payment, may be imprisoned for not more than 20 days.

b. Be permitted to perform community service work and attend substance abuse education and counseling in lieu of paying the forfeiture under par. a.

**106-41. Fraud On Residential Landlords Prohibited. 1. FRAUD PROHIBITED.** No person shall, with intent to defraud, do either of the following:

a. Intentionally abscond without paying rent that has been contractually agreed upon in a written lease or written rental agreement with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premises by the tenant, the nonpayment of the rent continues for a period of 5 days after vacation of the premises, and the tenant fails to provide the landlord with a complete and accurate forwarding address.

b. Issue any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails within 5 days of a written demand by the landlord or agent to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.

**2. APPLICABILITY.** This section shall apply to written leases or written rental agreements between residential landlords and tenants only. Words and terms used in this section shall be defined and construed in conformity with the provisions of Ch. ATPC 134, Wis. Adm. Code; ch. 704 and s. 990.001 (1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not in itself act as a bar to prosecution under this section.

**3. PROCEDURE.** A peace officer may issue a citation for either offense only when the complainant provides the following:

a. The name and current or last known address of the tenant, a copy of the subject written lease agreement or written rental agreement.

b. The amount of rent due, date it was due, date the tenant vacated the premises and testimony that the rent remained unpaid for not less than 5 days after vacating and that the tenant did not notify or attempt to notify the complainant of tenant's new address or that tenant knowingly gave complainant a false address.

c. For violations under sub.1-b, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof of service of the written demand pursuant to s. 704.21, Wis. Stats., and testimony that at least 5 days have elapsed since the date of service and no payment has been made.

**4. PENALTY.** a. Any person who violates this section shall upon conviction forfeit not less than \$250 nor more than \$1,000 together with costs of prosecution, or, in default of payment, may be imprisoned for not more than 40 days. In addition, the court may order such person to make full or partial restitution, in accordance with s. 800.093, Wis. Stats.

b. In accordance with s. 800.09, Wis. Stats., community service work may be imposed in lieu of making restitution or paying the forfeiture or both.

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## LEGISLATIVE HISTORY CHAPTER 106

### Abbreviations:

am = amended  
cr = created

ra = renumbered and amended  
rc = repealed and recreated

rn = renumbered  
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
106-1	am	930435	7/27/93	8/13/93
106-1.1	rc	961809	6/3/97	6/20/97
106-1.1	am	980990	12/18/98	12/31/98
106-1.1-2	rc	010660	9/25/2001	10/12/2001
106-1.8-1	rc	910668	8/2/91	8/21/91
106-1.8-2	am	910668	8/2/91	8/21/91
106-2.1	rc	910668	8/2/91	8/21/91
106-2.1-1.5	cr	970498	7/11/97	7/16/97
106-2.1-2-c	cr	970498	7/11/97	7/16/97
106-5	am	84-785	12/11/85	
106-9.6	rc	85-1957	11/1/88	11/18/88
106-9.6-1-i	am	960621	7/30/96	8/16/96
106-16	rp	970099	6/24/97	7/12/97
106-16-3	am	881930	3/7/89	3/25/89
106-21-1-c	am	930081	5/25/93	6/12/93
106-21-2-a-1	am	930081	5/25/93	6/12/93
106-21-2-b	am	930081	5/25/93	6/12/93
106-21-4-a	am	930081	5/25/93	6/12/93
106-21-4-c	am	930081	5/25/93	6/12/93
106-21-5	rc	930081	5/25/93	6/12/93
106-21-6	cr	880897	9/20/88	10/7/88
106-21-6	rc	930081	5/25/93	6/12/93
106-21-6-c	am	881930	3/7/89	3/25/89
106-21-7	cr	930081	5/25/93	6/12/93
106-21-8	cr	930081	5/25/93	6/12/93
106-23	rc	031508	5/25/2004	6/12/2004
106-23-0	am	902135	4/23/91	5/10/91
106-23-1	am	902135	4/23/91	5/10/91
106-23-4	rp	911605	12/20/91	1/14/92
106-23-5	rc	901398	2/12/91	3/1/91
106-23-5	rn to 106-23-4	911605	12/20/91	1/14/92
106-23.1	cr	981145	3/2/99	3/19/99
106-23.1-1-b	rn to 106-23.1-1-c	011343	2/11/2003	2/28/2003
106-23.1-1-b	cr	011343	2/11/2003	2/28/2003
106-23.1-2	am	011343	2/11/2003	2/28/2003
106-23.1-3	rc	011343	2/11/2003	2/28/2003
106-23.3	cr	951122	11/28/95	12/15/95
106-30	rc	890604	7/25/89	8/15/89
106-30-1-d	rc	010342	8/2/2001	8/18/2001
106-30-1-e	cr	010342	8/2/2001	8/18/2001
106-30-2	rc	010342	8/2/2001	8/18/2001
106-30-3-a	am	010342	8/2/2001	8/18/2001
106-30-3-b	am	010342	8/2/2001	8/18/2001
106-30-3-d	cr	010342	8/2/2001	8/18/2001
106-30-3-e	cr	010342	8/2/2001	8/18/2001
106-30-4	rn to 106-30-5	010342	8/2/2001	8/18/2001
106-30-4	cr	010342	8/2/2001	8/18/2001
106-30.5	cr	010342	8/2/2001	8/18/2001

# **Morals and Welfare 106--(HISTORY)**

106-31-8	cr	020414	8/1/2002	8/20/2002
106-31-9	cr	021732	4/15/2003	4/25/2003
106-32	rp	960411	9/23/98	10/10/98
106-34	rc	932001	4/26/94	5/13/94
106-34-1-b	rc	940273	7/15/94	7/29/94
106-34-1-c	rc	940273	7/15/94	7/29/94
106-34-3-a	rc	940273	7/15/94	7/29/94
106-34-3-b	rc	940273	7/15/94	7/29/94
106-34-3-d	cr	940273	7/15/94	7/29/94
106-35	cr	890662	12/19/89	1/13/90
106-35-2	am	910784	8/2/91	8/21/91
106-35.6	cr	930544	10/19/93	11/5/93
106-36	cr	882206	1/19/90	1/23/90
106-38	cr	970136	5/13/97	5/31/97
106-38-2	am	001458	2/27/2001	3/16/2001
106-41	cr	941972	7/14/95	7/29/95
106-41	am	970262	6/3/97	6/20/97
106-41	am	991994	5/19/2000	6/8/2000

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